



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB1927

by Rep. Emily McAsey

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-30

from Ch. 38, par. 12-30

Amends the Criminal Code of 1961 relating to violation of an order of protection. Provides that the Class 4 felony violation of an order of protection if the defendant had prior convictions for specified offenses applies to a prior conviction under the law of another jurisdiction for an offense which is substantially similar to specified Illinois offenses. Effective immediately.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 12-30 as follows:

6 (720 ILCS 5/12-30) (from Ch. 38, par. 12-30)

7 Sec. 12-30. Violation of an order of protection.

8 (a) A person commits violation of an order of protection  
9 if:

10 (1) He or she commits an act which was prohibited by a  
11 court or fails to commit an act which was ordered by a  
12 court in violation of:

13 (i) a remedy in a valid order of protection  
14 authorized under paragraphs (1), (2), (3), (14), or  
15 (14.5) of subsection (b) of Section 214 of the Illinois  
16 Domestic Violence Act of 1986,

17 (ii) a remedy, which is substantially similar to  
18 the remedies authorized under paragraphs (1), (2),  
19 (3), (14) or (14.5) of subsection (b) of Section 214 of  
20 the Illinois Domestic Violence Act of 1986, in a valid  
21 order of protection, which is authorized under the laws  
22 of another state, tribe or United States territory,

23 (iii) any other remedy when the act constitutes a

1 crime against the protected parties as the term  
2 protected parties is defined in Section 112A-4 of the  
3 Code of Criminal Procedure of 1963; and

4 (2) Such violation occurs after the offender has been  
5 served notice of the contents of the order, pursuant to the  
6 Illinois Domestic Violence Act of 1986 or any substantially  
7 similar statute of another state, tribe or United States  
8 territory, or otherwise has acquired actual knowledge of  
9 the contents of the order.

10 An order of protection issued by a state, tribal or  
11 territorial court related to domestic or family violence shall  
12 be deemed valid if the issuing court had jurisdiction over the  
13 parties and matter under the law of the state, tribe or  
14 territory. There shall be a presumption of validity where an  
15 order is certified and appears authentic on its face.

16 (a-5) Failure to provide reasonable notice and opportunity  
17 to be heard shall be an affirmative defense to any charge or  
18 process filed seeking enforcement of a foreign order of  
19 protection.

20 (b) For purposes of this Section, an "order of protection"  
21 may have been issued in a criminal or civil proceeding.

22 (c) Nothing in this Section shall be construed to diminish  
23 the inherent authority of the courts to enforce their lawful  
24 orders through civil or criminal contempt proceedings.

25 (d) Violation of an order of protection under subsection  
26 (a) of this Section is a Class A misdemeanor. Violation of an

1 order of protection under subsection (a) of this Section is a  
2 Class 4 felony if the defendant has any prior conviction under  
3 this Code for domestic battery (Section 12-3.2) or violation of  
4 an order of protection (Section 12-30), or any prior conviction  
5 under the law of another jurisdiction for an offense which is  
6 substantially similar. Violation of an order of protection is a  
7 Class 4 felony if the defendant has any prior conviction under  
8 this Code for first degree murder (Section 9-1), attempt to  
9 commit first degree murder (Section 8-4), aggravated domestic  
10 battery (Section 12-3.3), aggravated battery (Section 12-4),  
11 heinous battery (Section 12-4.1), aggravated battery with a  
12 firearm (Section 12-4.2), aggravated battery of a child  
13 (Section 12-4.3), aggravated battery of an unborn child  
14 (Section 12-4.4), aggravated battery of a senior citizen  
15 (Section 12-4.6), stalking (Section 12-7.3), aggravated  
16 stalking (Section 12-7.4), criminal sexual assault (Section  
17 12-13), aggravated criminal sexual assault (12-14), kidnapping  
18 (Section 10-1), aggravated kidnapping (Section 10-2),  
19 predatory criminal sexual assault of a child (Section 12-14.1),  
20 aggravated criminal sexual abuse (Section 12-16), unlawful  
21 restraint (Section 10-3), aggravated unlawful restraint  
22 (Section 10-3.1), aggravated arson (Section 20-1.1), or  
23 aggravated discharge of a firearm (Section 24-1.2), or any  
24 prior conviction under the law of another jurisdiction for any  
25 offense that is substantially similar to the offenses listed in  
26 this Section, when any of these offenses have been committed

1 against a family or household member as defined in Section  
2 112A-3 of the Code of Criminal Procedure of 1963. The court  
3 shall impose a minimum penalty of 24 hours imprisonment for  
4 defendant's second or subsequent violation of any order of  
5 protection; unless the court explicitly finds that an increased  
6 penalty or such period of imprisonment would be manifestly  
7 unjust. In addition to any other penalties, the court may order  
8 the defendant to pay a fine as authorized under Section 5-9-1  
9 of the Unified Code of Corrections or to make restitution to  
10 the victim under Section 5-5-6 of the Unified Code of  
11 Corrections. In addition to any other penalties, including  
12 those imposed by Section 5-9-1.5 of the Unified Code of  
13 Corrections, the court shall impose an additional fine of \$20  
14 as authorized by Section 5-9-1.11 of the Unified Code of  
15 Corrections upon any person convicted of or placed on  
16 supervision for a violation of this Section. The additional  
17 fine shall be imposed for each violation of this Section.

18 (e) The limitations placed on law enforcement liability by  
19 Section 305 of the Illinois Domestic Violence Act of 1986 apply  
20 to actions taken under this Section.

21 (Source: P.A. 91-112, eff. 10-1-99; 91-357, eff. 7-29-99;  
22 92-827, eff. 8-22-02.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.